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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/619,621	Applicant(s) REUSTLE ET AL.	
	Examiner Robin A. Hylton	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12-4-03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the plastic material as described in the specification as alternating thick and thin lines in the cross-sectional views. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because the cross hatching of the lid components is not in accordance with the standard practice outlined in MPEP 608.02. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

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"amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: inconsistency in using reference characters such as "1C" and "1c" and "1B" and "1b" in paragraph [0013] and on page 7, in paragraph [0015] "centering ring 12" should read -- centering element 12 --.

Appropriate correction is required.

4. The abstract of the disclosure is objected to because the phrase "by of" is unclear. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

5. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The structure and/or structural relationships of the claimed filler device are not clearly set forth in the claims. The following are specific examples of the deficiencies in the claims, but may not be inclusive. Applicant is required to review all claim language and amend as necessary.

- Is the "a filler neck" in claim 1, line 6 different from that set forth in line 1?
- What is intended by "reaches through"?

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- Regarding the centering element, how is the “profile leg of an interior side of the neck”?
- What is the relationship between the “ring collar” and the rest of the centering element?
- What and where is the ring opening of the holding ring?

As a result of using “means”, claims 1 and 12 fail to meet the 3-prong analysis of a “means plus function” claim set forth in the “Supplemental Examination Guidelines” effective June 21, 2000 and published in the Official Gazette on July 25, 2000. If applicant desires to invoke 35 USC 112, 6th paragraph, applicant must either modify the claim to include the phrase “means for” or show that even though the phrase “means for” is not used, the claim limitation is written as a function to be performed and does not recite sufficient structure, material, or acts which would preclude application of 35 USC 112, 6th paragraph.

Claim 1 recites the limitation “its ring opening” in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 12, 13, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitsukawa (US 4,768,677).

Disclosed is a lid having a cup-shaped closing cap **45** having a bottom wall **65**, an annular wall **67** connected to a periphery of the bottom wall, and an annular fastening section **50** connected to a central area of the bottom wall, a centering element **44** surrounding the fastening section, said centering element in use interacting with the filler neck to center the closing cap on the filler neck, and a holding ring **79** operable to hold the centering element on the fastening

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section, wherein a drip nose (unnumbered lower portion of 44) extending away from the bottom is constructed on the centering element, and wherein the centering element rests by means of its interior circumferential surface flatly against the fastening section and, by means of its exterior circumferential surface, rests flatly against the interior side of the neck. The groove formed in the u-shaped upper portion at 57 is the ring collar.

Allowable Subject Matter

8. Claims 1-11 **appear** to be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Applicant's amendments to the claims will be considered and appropriate action taken thereon.

9. Claims 14-17 and 20 appear to be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Applicant's amendments to the claims will be considered and appropriate action taken thereon.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely

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asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-9306 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

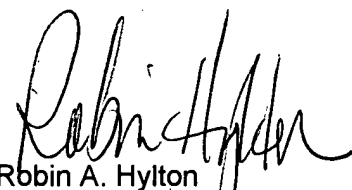
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a part-time schedule and can normally be reached on Monday - Friday from 9:00 a.m. to 1:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148 or may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
November 11, 2004


Robin A. Hylton
Primary Examiner, GAU 3727